IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 6625 of 2003

Between:

1. Thota Purnachandra Rao,
   s/o Sri T.Venkateswarlu,
   48 years, Occ: Business,
   r/o Door No.2/79, 10th Line,
   Pandaripuram, Chilakaluripet (Post)
   Guntur district.

2. Thota Vani,
   w/o Sri T.Purnachandra Rao,
   aged 41 years, Occ: House wife
   R/o D.No.2/79, 10th Line,
   Pandaripuram, Chilakaluripet (Post),
   Guntur district.

..... PETITIONER

AND

1. The Government of India, rep by its Secretary,
   (Finance & Planning) Department,
   New Delhi.

2. The Bank of India,
   Visakhapatnam Zonal Office,
   Kishan Bhavan, 10-50-51,
   Ram Nagar, Waltair Main Road,
   Visakhapatnam – 530 002.
   rep by its Zonal Manager/Chief Manager

3. The Bank of India,
   Naaz Centre Branch, Guntur

rep by its Branch Manager.

4. M/s Krishna Tobacco Enterprises,
Gandhipet, Chilakaluripet,
Guntur district
rep by its Proprietor Mr Gatta Jaya Krishna Prasad

.....RESPONDENTs

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus by declaring the impugned notice CC 220 119, Re: M/s Krishna Tobacco Enterprises, dated 15-1-2003 issued by the 3rd respondent under provisions of Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Ordinance, 2002 (presently Securitisation and Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002), as illegal, arbitrary, violative of principles of natural justice and also violative of the basic principles of rule of law and fundamental rights guaranteed under Constitution of India and set aside the same as the said provisions of Section 13 of the Act ultra vires and unconstitutional.

Counsel for the Petitioners: MR.M SRINIVASA RAO

Counsel for respondent No.1; Sri A.Rajasekhar Reddy, SC for CG

Counsel for the Respondent No.2 & 3: MR.S.SURYA PRAKASA RAO

Counsel for respondent No.4: Mr V.L.N.G.K.Murthy

The Court made the following ORDER:

(per Hon'ble Sri Devinder Gupta, The Chief Justice)

In view of the decision of the Hon'ble Supreme Court in Transfer Case (Civil) No.92-95 of 2002, dated 8th April, 2004 [MARDIA CHEMICALS LTD v UNION OF INDIA & ORS], challenge to the provisions of the Securitisation And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is not tenable and for that reason relief prayed for in this writ petition cannot be granted. Writ petition is, therefore, dismissed.

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DEVINDER GUPTA, CJ

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G.ROHINI, J

July 16, 2004.

nmr

ASSISTANT REGISTRAR

// true copy //

SECTION OFFICER

To

1.The Secretary (Finance & Planning) Department,
Government of India, New Delhi.

2.The Zonal Manager/Chief Manager, The Bank of India,
Visakhapatnam Zonal Office, Kishan Bhavan, 10-50-51,
Ram Nagar, Waltair Main Road,
Visakhapatnam – 530 002.

3.The Branch Manager, The Bank of India,
Naaz Centre Branch, Guntur

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